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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Herbert, Jay Andrew
Serial No.: 10/827,466
Filed: April 19, 2004
Group Art Unit: 3746
Examiner: Gillan, Ryan P.
Title: PERMANENT LOW COST RADIO FREQUENCY
COMPRESSOR IDENTIFICATION

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Subsequent to filing the Notice of Appeal on November 12, 2007, Appellant hereby submits its appeal brief. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds in the amount of \$510.00, as well as for any additional fees or credit the account for any overpayment.

Real Party in Interest

Scroll Technologies is the real party in interest of the present application. An assignment of all rights in the present application to Scroll Technologies was executed by the inventors and recorded by the U.S. Patent and Trademark Office at Reel 015245, Frame 0111.

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Related Appeals and Interferences

There are no other appeals or interferences related to the present application of which Appellant is aware..

Status of the Claims

Claims 1-19 and 21-22, which are presented in the Appendix, stand finally rejected. Accordingly, the Appellant hereby appeals the final rejection of claims 1-19 and 21-22.

Status of Amendments

All amendments to the claims have been entered.

Summary of Claimed Subject Matter

Summary of Independent Claim 1 – Claim 1 relates to a sealed compressor assembly 10 (see Figure 1). The compressor assembly has compressor comprising a compressor pump unit 30 and a motor 34 for driving the compressor pump unit 30. A housing 14 is provided, which encloses compressor pump unit 30. Mounted to the compressor is memory tag 16, which has a receiver 18 and a memory unit 22. (See Figure 2). The receiver 18 is configured to receive a first wireless signal and is in communication with memory unit 22. This basic structure is set forth in Claim 1.

Summary of Independent Claim 11 – Claim 11 recites a compressor 10 comprising a compressor pump unit 30 and a motor 34 for driving the compressor pump unit 30. A housing 14 is provided, which encloses compressor pump unit 30. Mounted to the compressor is memory tag 16, which has a first receiver 18 for receiving a first wireless electrical signal, first transmitter 42 for transmitting a second electrical signal, compressor microprocessor 38 and a memory unit 22. (See Figure 2). Compressor microprocessor 38 is in communication with the first receiver 18 and the first transmitter 42. The memory unit 22 is in communication with the first receiver 18, the first

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transmitter 42, and the compressor microprocessor 38. The memory unit 22 is configured to store information relating to compressor 10. This basic structure is set forth in Claim 11.

Grounds of Rejection to be Reviewed on Appeal

- A. Are claims 1-19 and 21-22 properly rejected under 35 U.S.C. §103(a) as being obvious in light of *Hahn* (U.S. Patent App No. 2002/0127120) in view of *Blotenberg* (U.S. Patent No. 6,269,299)?

ARGUMENT

- A. **The rejection of claims 1-19 and 21-22 under 35 U.S.C. §103(a) is improper.**

The Examiner finally rejected claims 1-19 and 21-22 as being obvious over *Hahn* in view of *Blotenberg*. Claim 1 is independent and has dependent claims 2-10 and 21. Claim 11 is independent and has dependent claims 12-19 and 22. The Examiner rejected all claims in view of the combination of *Hahn* and *Blotenberg*. Because the combination of references do not teach each of the limitations of the claims and because the combination is improper, Applicant contends that claims 1-19 and 21-22 are in condition for allowance.

With respect to Claim 1 and 11, these claims and consequently their dependents require a receiver for receiving a first wireless signal mounted to a compressor. Specifically, Claim 1 requires a "first wireless signal" while Claim 11 requires a "first wireless electric signal." Essentially, the Examiner argues that *Hahn* teaches all of the limitations of Claim 1, except for "a receiver for receiving a first wireless signal," which he argues is taught by *Blotenberg*. However, *Blotenberg* fails to teach mounting the "receiver" to the compressor. Instead, *Blotenberg* teaches a wireless receiver for a "mobile telephone connection, a satellite connection, or a terrestrial radio connection, which is located away from the compressor. [*Blotenberg*, Col. 5, 32-54]. The wireless communication does not even occur between a remote device and the compressor but between two programming devices (first programming device 5 and second programming device 10), one of

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which is hardwired linked to the compressor. [*Blotenberg*, Col. 5, 32-54]. There can be no dispute that *Blotenberg* fails to teach a wireless receiver "mounted to said compressor" as required by Claim 1.

The Examiner apparently argues that one of the programming devices is located a few meters away and is thus located "at the point of the compressor." Moreover, he argues that there are elements in *Hahn* that are mounted to the compressor and are analogous to a receiver. Apparently, the Examiner relies on the fact that *Hahn* has a microprocessor that receives signals from sensors on the compressor as analogous to the wireless receiver of *Blotenberg*. A microprocessor is not analogous to a wireless receiver, such as a "mobile telephone connection, satellite connection, or a terrestrial radio connection," because there is no reception of a signal from beyond the compressor. Accordingly, even if one assumes the combination of *Hahn* and *Blotenberg* to be proper, there is still no teaching of a wireless receiver mounted to the compressor as required by Claim 1. Therefore, Claim 1 and its dependents, Claims 2-10 and 21, are in condition for allowance.

The Examiner contends that it would be a matter of simple substitution to take the wireless device of *Blotenberg*, i.e. the mobile telephone connection, the satellite connection or terrestrial radio connection, and replace a so-called "receiver" on the microprocessor of *Hahn* to enable the device to be wireless "for adjusting compressor control parameters from a central or off-site location." [Final Office Action (8/2907), p. 4]. However, this substitution would destroy *Hahn* as a reference. Specifically, *Hahn* receives through the "receiver" sensor "signals relating to a number of operational factors of the compressor," which are sensed by the compressor locally for the purpose of controlling the compressor locally. [*Hahn*, ¶¶ 7-9]. By eliminating reception of these

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signals, the feedback mechanism is rendered inoperable destroying the ability of *Hahn* to determine a fault condition with the compressor, which is an intended purpose of *Hahn*. [*Hahn*, ¶ 8].

Further, this substitution would change a principle of operation of *Hahn* and *Blotenberg*. *Hahn* requires communication of sensor data collected locally from the compressor to be communicated locally to the compressor for the fault condition to be detected. [*Hahn*, ¶ 8]. Control of the compressor is thus accomplished at the compressor, not remotely. This control cannot be accomplished by the remote communication of information taught by *Blotenberg*. Therefore, the combination of *Hahn* and *Blotenberg* cannot be made.

Also, the remote operation taught by *Blotenberg* is between programming device 10 and programming device 5, not control and regulating system 4. The proposed combination would change a principle of operation of *Blotenberg* by eliminating programming device 5. The Examiner responds by noting that the function of programming device 5 can be limited to being merely a receiver and apparently still retained. However, in the Examiner's proposed combination, the programming device 5 is still eliminated as communication now occurs between a remote programming device and the compressor. The principle of operation of *Blotenberg* is still changed. For this additional reason, the combination of *Hahn* and *Blotenberg* is improper.

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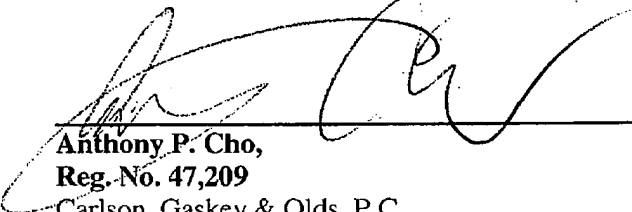
CONCLUSION

For the foregoing reasons, the final rejection of claims 1-19 and 21-22 is improper and should be withdrawn. Claims 1-19 and 21-22 are in condition for allowance.

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

January 14, 2008
Date


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CERTIFICATE OF FACSIMILE

I hereby certify that this Appeal Brief, relative to Application Serial No. 10/827,466, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on January 14, 2008.


Theresa M. Palmateer

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APPENDIX OF CLAIMS

1. A sealed compressor assembly comprising:
a compressor comprising a compressor pump unit and a motor for driving said compressor pump unit;
a housing enclosing said compressor pump unit;
a receiver for receiving a first wireless signal; and
a memory unit in communication with said receiver, said memory unit for storing information relating to said compressor, said receiver and said memory unit mounted to said compressor.
2. The sealed compressor assembly of Claim 1 including a microprocessor in communication with said receiver and said memory unit.
3. The sealed compressor assembly of Claim 2 including a transmitter in communication with said microprocessor, said transmitter for transmitting a second signal.
4. The sealed compressor assembly of Claim 1 wherein said information relating to said compressor comprises information relating to the manufacture of said compressor.
5. The sealed compressor assembly of Claim 1 wherein said information relating to said compressor comprises information relating to the service of said compressor.
6. The sealed compressor assembly of Claim 1 wherein said information relating to said compressor comprises information relating to the environment of said compressor.
7. The sealed compressor assembly of Claim 1 wherein said information relating to said compressor comprises information relating to the use of said compressor.
8. The sealed compressor assembly of Claim 1 wherein said first wireless signal is an electric signal.

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9. The sealed compressor assembly of Claim 8 wherein said electric signal is a radio frequency signal.

10. The sealed compressor assembly of Claim 1 wherein said receiver and said memory unit are mounted to said housing.

11. A sealed compressor system comprising:

a compressor comprising a compressor pump unit and a motor for driving said compressor pump unit;

a housing enclosing said compressor pump unit;

a first receiver for receiving a first wireless electric signal

a first transmitter for transmitting a second electric signal;

a compressor microprocessor in communication with said first receiver and said first transmitter;

a memory unit in communication with said first receiver, said first transmitter and said compressor microprocessor, said memory unit for storing information relating to said compressor; and

wherein said first receiver, said first transmitter, said memory unit and said compressor microprocessor are mounted to said compressor.

12. The sealed compressor system of Claim 11 wherein said information relating to said compressor comprises information relating to the manufacture of the compressor.

13. The sealed compressor system of Claim 11 wherein said information relating to said compressor comprises information relating to the service of the compressor.

14. The sealed compressor system of Claim 11 wherein said information relating to said compressor comprises information relating to the environment of the compressor.

15. The sealed compressor system of Claim 11 wherein said information relating to said compressor comprises information relating to the use of the compressor.

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16. The sealed compressor system of Claim 11 wherein said receiver and said memory unit are mounted to said housing.

17. The sealed compressor system of Claim 11 including a second receiver and a second transmitter, said second receiver and said second transmitter for remote communication with said first receiver and said first transmitter.

18. The sealed compressor system of Claim 17 wherein said second transmitter and said second receiver form part of a portable remote unit.

19. The sealed compressor system of Claim 18 wherein said portable remote unit includes a remote unit microprocessor in communication with said second transmitter and said second receiver.

20. (Cancelled)

21. The sealed compressor of claim 1 where said memory unit is independent of said compressor microprocessor.

22. The sealed compressor of claim 11 where said memory unit is independent of said compressor microprocessor.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.